CERTIFICATE OF EFS FILING UNDER 37 CFR §1.8

I hereby certify that this correspondence is being electronically transmitted to the United States Patent and Trademark Office, Commissioner for Patents, via the EFS pursuant to 37 CFR §1.8 on the below date:

Date: September 8, 2009 Name: Scott W. Brim, Reg. No. 51,500 Signature: /Scott W. Brim/

Attorney Docket No. 8285/469

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Ahmad Ansari et al.	Examiner: Raman, Usha
Serial No.:	09/842,363	Group Art Unit No.: 2424
Filing Date:	April 25, 2001	Confirmation No.: 6562
For:	Method and System for Transferring Content to a Networked Unit	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandra, VA 22313-1450

Dear Sir:

Applicants request review of the final rejection in the above-identified application.

No amendments are being filed with this request.

This request is being filed with a notice of appeal

The review is requested for the reasons stated on the attached sheets. No more than five (5) pages are provided.

REMARKS

I. Introduction

Claims 1, 3, 4, 6-13, 15-17, and 21-24 are pending in the application. In the Office Action dated June 8, 2009, the Examiner rejected claims 1, 3, 4, 6-13, 15-17, and 21-24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. Pub. No. 2002/0116473 ("Gemmell") in view of U.S. Pat. No. 6,496,980 ("Tillman") and U.S. Pat. No. 5,790,935 ("Payton"). Applicants request review of the final rejection.

II. The Proposed Combination Does Not Render Claim 1 Unpatentable

Independent claim 1 recites:

> downloading a complete copy of a low-quality video portion to a subscriber terminal via a digital subscriber line during off-peak hours for storage locally at the subscriber terminal; and
>
> receiving from the subscriber terminal a selection request for the program corresponding to the video content after downloading the complete copy of the low-quality video portion.

In the proposed combination of Gemmell, Tillman, and Payton, the Examiner asserts that Gemmell teaches pre-fetching layers of a video program and that Payton teaches downloading items during off peak hours. Therefore, it is asserted that Gemmell in view of Payton teaches downloading a complete copy of a low-quality video portion to a subscriber terminal via a digital subscriber line during off-peak hours for storage locally at the subscriber terminal. Applicants respectfully disagree.

Gemmell is directed to progressive streaming media rendering. There seems to be no dispute that Gemmell does not explicitly teach pre-fetching a base layer of a video program. However, the Examiner asserts that pre-fetching a base layer of a video program would be obvious to one of ordinary skill. (See Office Action dated June 8, 2009, page 2). Applicants respectfully disagree. In the portions of Gemmell cited by the Examiner, versions of a video program that are of a quality higher than versions of a video program that have been previously received may be received and cached in case a user later requests to view a higher quality version of the video program. The higher-level versions are pre-fetched, based on preferences set by a user, when the user receives the base layer of the video program that a user request previously requested.

There is no teaching or suggestion in the portions of Gemmell cited by the Examiner of ***a base layer of a video program*** being received and cached before a user requests a program.

Further, while Payton may teach downloading and storing a video program during off-peak hours based on a prediction of which video programs a user may request, Payton fails to teach receiving and storing ***a base layer of a video program*** during off-peak hours based on a prediction of which video programs a user may request. In other words, Payton also fails to teach pre-fetching a base layer of a video program before a user requests a program. Thus, neither Gemmell nor Payton, alone or in combination, teach receiving and storing a base layer of a video program during off-peak hours before a user requests the video program. Accordingly, the combination of Gemmell and Payton as contemplated by the Examiner necessarily fails to teach downloading a complete copy of a low-quality video portion to a subscriber terminal via a digital subscriber line during off-peak hours for storage locally at the subscriber terminal, where the complete copy of the low-quality video portion is downloaded before receiving a selection request for the program as in claim 1. For at least this reason, the proposed combinations of Gemmell, Tillman, and Payton do not render unpatentable independent claim 1 or any claim that depends on claim 1.

III. The Proposed Combinations Do Not Render Claim 11 Unpatentable

Independent claim 11 generally recites:

> a subscriber unit for storing one or more lower quality parts of decomposed videos corresponding to higher quality parts stored in a repository, the one or more low quality parts comprising a complete copy of the video, the subscriber unit including a user interface for permitting a user to select a video corresponding to one of the locally stored lower quality parts after storing the one or more low quality parts comprising the complete copy of the video, wherein the selection of the video generates a subscriber request;
>
> wherein the lower quality part is downloaded to the subscriber unit during off-peak hours.

As discussed above in conjunction with claim 1, the proposed combinations of Gemmell, Tillman, and Payton fail to teach that a low-quality portion of decompressed video is downloaded to a subscriber unit during off-peak hours before the a user selects

the video corresponding to the low-quality portion of decompressed video. For at least this reason, the proposed combinations of Gemmell, Tillman, and Payton do not render unpatentable independent claim 11 or any claim that depends on claim 11.

IV. The Proposed Combinations Do Not Render Claim 21 Unpatentable

Independent claim 21 generally recites:

> means for downloading a low quality part of the video content during off-peak hours that represents a complete copy of the program at a low video quality to the networked device via a digital subscriber line for storage therein; and
>
> means for receiving from the networked device a selection request for the program corresponding to the low quality part stored at the networked device after downloading the low quality part of the video content.

As discussed above in conjunction with claim 1, the proposed combinations of Gemmell, Tillman, and Payton fail to teach that a low-quality part of video content is downloaded during off-peak hours before a user selects a program corresponding to the low-quality part of video content. For at least this reason, the proposed combinations of Gemmell, Tillman, and Payton do not render unpatentable independent claim 21 or any claim that depends on claim 21.

V. Conclusion

Applicants request review of the final rejections in light of the comments above.

Respectfully submitted,

/Scott W. Brim/
Scott W. Brim
Registration No. 51,500
Attorney for Applicants

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200